

Order

Michigan Supreme Court
Lansing, Michigan

November 28, 2007

Clifford W. Taylor,
Chief Justice

131879

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

MARY MULLINS, Personal Representative
of the Estate of Nina F. Mullins, Deceased,
Plaintiff-Appellant,

v

SC: 131879
COA: 263210
Washtenaw CC: 03-000812-NH

ST. JOSEPH MERCY HOSPITAL, d/b/a ST.
JOSEPH MERCY HEALTH SYSTEM, JASON
WHITE, M.D., RAFAEL J. GROSSMAN, M.D.,
and KIMBERLY STEWART, M.D.,
Defendants-Appellees

and

JAMES R. BENGSTON, and WALTER
WHITEHOUSE, M.D.,
Defendants.

On order of the Court, leave to appeal having been granted, 477 Mich 1066 (2007), and the briefs and oral argument of the parties having been considered by the Court, we hereby REVERSE the July 11, 2006 judgment of the Court of Appeals. MCR 7.302(G)(1). We conclude that this Court's decision in *Waltz v Wyse*, 469 Mich 642 (2004), does not apply to any causes of action filed after *Omelenchuk v City of Warren*, 461 Mich 567 (2000), was decided in which the savings period expired, i.e., two years had elapsed since the personal representative was appointed, sometime between the date that *Omelenchuk* was decided and within 182 days after *Waltz* was decided. All other causes of action are controlled by *Waltz*. In the instant case, because the plaintiff filed this action after *Omelenchuk* was decided and the savings period expired between the date that *Omelenchuk* was decided and within 182 days after *Waltz* was decided, *Waltz* is not applicable. Accordingly, we REMAND this case to the Washtenaw Circuit Court for entry of an order denying the defendants' motion for summary disposition and for further proceedings not inconsistent with this order.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 28, 2007

Corbin R. Davis

Clerk